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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,008	07/31/2001	Kurt E. Spears	10013070-1	3181

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EXAMINER

LUU, THANH X

ART UNIT

PAPER NUMBER

2878

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/919,008

Applicant(s)

SPEARS ET AL.

Examiner

Thanh X Luu

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,9,11,12,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,9,11,12,17 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4, 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

This Office Action is in response to amendments and remarks filed March 3, 2003. Claims 1, 3, 4, 9, 11, 12, 17 and 18 are currently pending.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 9, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ando (U.S. Patent 5,362,958).

Regarding claims 1 and 18, Ando discloses (see Figures 5-7) a scanner, comprising: a platen (not shown; see column 6, line 64); and an optical head (housing elements 7-10; see Figure 6) that travels substantially parallel to the platen (left/right; see Figure 6), the optical head displaced from the platen by a first distance for a first direction of travel of the optical head and by a different distance for a second direction of travel of the optical head (see Figure 5). Ando further discloses (see Figures 5 and 7) a platen (not shown); a photosensor array (10), the photosensor array being translated substantially parallel (left/right; see Figure 6) to the platen, where a first direction of translation (right) causes the photosensor array to be displaced from the platen a first distance (in order to provide focus adjustment for the curve of the book), and where a second direction of translation (left) causes the photosensor array to be displaced from the platen a different distance (for focus adjustment of a flat portion of

the book). That is, in Figures 5 and 6 when the optical head moves in a first direction (right) towards a curve of the book, a distance of the optical head is adjusted (moved vertically; see Figure 7) by a first distance for focus adjustment; and when the optical head moves in a second direction (left) the optical head is adjusted by a second distance for flat scanning.

Regarding claims 9 and 17, Ando discloses (see Figures 3 and 5-7) a method of scanning, comprising: translating an optical head (see Figure 6) in a direction (left or right) substantially parallel to a platen, and adjusting a distance (see Figures 5 and 7) of the optical head relative to the platen, where the direction is dependent on a direction of translation of the optical head. Ando also discloses (see Figures 5-7) a scanner, comprising: a photosensor array (10); a platen (not shown); and means for changing a distance (221-223; see Figure 7) of the photosensor array relative to a surface of the platen, dependent on a direction of translation of the photosensor array. That is, as seen in Figures 5 and 7, the optical head a distance is adjusted (moved vertically) in order to provide focus adjustment on the curved surface of the book, and thus is dependent on the direction of translation of the optical head.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 3, 4, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando in view of Wurm et al. (U.S. Patent 6,495,812) and the Japanese publication of Takahashi (JP 11-341219).

Regarding claims 11 and 12, Ando discloses the claimed invention as set forth above. Ando does not specifically disclose pivoting the optical head around a pad, wherein the direction of pivoting is dependent on a direction of translating. Wurm et al. teach (see Figures 3 and 4) pivoting an optical head in order to obtain better focusing. Ando and Wurm et al. do not specifically disclose pads. Takahashi discloses (see Figures) pads on optical heads in order to prevent the optical head from scratching the platen. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide pads and to pivot the optical head in the apparatus and method of Ando in view of Wurm et al. and Takahashi to provide scratch free and improved focusing of an object on a platen.

Regarding claims 3 and 4, Ando in view of Wurm et al. and Takahashi disclose the claimed invention as set forth above. Ando, Wurm et al. and Takahashi do not specifically disclose pivoting to a second position in a second direction of travel. However, as shown in Figure 6 of Ando, since the curve of the book faces different directions, it would have been obvious to a person of ordinary skill in the art to provide a second pivoting position in the apparatus of Ando in view of Wurm et al and Takahashi to properly and more accurately read the two curved surfaces of the book.

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***Response to Arguments***

5. Applicant's arguments filed March 3, 2003 have been fully considered but they are not persuasive.

Regarding the rejection of claims 1, 9 and 17 over Ando, Applicant asserts that Ando does not disclose displacement of an optical head dependent on direction of travel of the optical head. Examiner disagrees. Ando moves the optical head vertically for focus adjustment on the curved surface of a book. Since the curved surface of the book is located in the center of the platen, as the optical head is translated in one direction, the optical head is displaced based on the translation. Thus, Ando does disclose the claimed invention as set forth above.

Applicant's arguments with respect to the rejection of claim 12 over Takahashi have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ando in view of Wurm et al. and Takahashi.

Thus, as set forth above, this rejection is proper.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh X. Luu whose telephone number is (703) 305-0539. The examiner can normally be reached on Monday-Friday from 6:30 AM - 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta, can be reached on (703) 308-4852. The fax phone number for the organization where the application or proceeding is assigned is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

txl  
May 13, 2003



Thanh X. Luu  
Patent Examiner